

REFERENCE TITLE: state treasurer; universities; technology transfer

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1559

Introduced by
Senator Martin

AN ACT

AMENDING SECTIONS 15-1635 AND 15-1662, ARIZONA REVISED STATUTES; RELATING TO UNIVERSITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-1635, Arizona Revised Statutes, is amended to
3 read:

4 15-1635. University research development purposes; product
5 development: corporations

6 A. In order to stimulate the flow of capital into the development of
7 specific products ~~which~~ THAT have advanced beyond the theoretical stage and
8 THAT are capable of being reduced to practice on a commercial scale, the
9 board ~~may~~ by resolution MAY organize one or more corporations under ~~the~~
10 ~~provisions of~~ title 10. At least one-half of any voting shares of each such
11 corporation shall be held by the board, or a majority of the directors,
12 trustees or members of the corporation shall be designated or appointed by
13 the board. No member or employee of the board may receive any direct or
14 indirect compensation, other than reimbursement for actual expenses incurred
15 in the performance of ~~his~~ THE MEMBER'S OR EMPLOYEE'S duties, by reason of
16 serving as a member, director or trustee of a corporation organized under
17 this section.

18 B. No such corporation may be organized unless the board finds in its
19 organizational resolution that its formation will stimulate and encourage the
20 development of new products within this state in situations in which
21 financial aid would not otherwise be reasonably available from conventional
22 lending sources. In addition to the powers each corporation may have, each
23 corporation may:

24 1. Enter into product development agreements with persons doing
25 business in this state, on such terms and conditions as are consistent with
26 the research development purposes of the board, to advance financial aid to
27 such persons for the development of specific products, procedures and
28 techniques to be developed and produced in this state and to condition such
29 agreements on contractual assurances that the benefits of increasing or
30 maintaining employment and tax revenues shall remain in this state and accrue
31 to it.

32 2. Acquire, lease, purchase, manage, hold and dispose of real and
33 personal property in this state and lease, convey or deal in or enter into
34 contracts with respect to such property on any terms necessary or incidental
35 to carrying out these research and development purposes.

36 3. Hold patents, copyrights, trademarks or any other evidences of
37 protection or exclusivity as to any products issued under the laws of the
38 United States or any state or nation.

39 C. Before organizing such a corporation, the board shall develop a
40 procedure for applications for financial aid to be forwarded, together with
41 an application fee prescribed by the board, to the board. The board shall
42 investigate and prepare a report concerning the advisability of approving the
43 proposed financial aid for such person and concerning any other factors
44 deemed relevant. The investigation and report shall include such facts about
45 the person under consideration as ~~his~~ THE PERSON'S history, wage standards,

1 job opportunities, stability of employment, past and present financial
2 condition and structure, pro forma income statements, present and future
3 markets and prospects and integrity of management as well as the feasibility
4 of the proposed project to be granted financial aid, including the state of
5 development of the product as well as the likelihood of its commercial
6 feasibility. After receipt and consideration of the report and after other
7 action as is deemed appropriate, the board shall approve or deny the
8 application. The board shall promptly notify the applicant of such
9 action. Approval shall be conditioned on payment to the board, within such
10 reasonable time after notification of approval as the board may specify, of a
11 commitment fee prescribed by the board.

12 D. The board may receive and accept aid or contributions of monies
13 from any source, including gifts or grants from private sources or from any
14 department or agency of the United States or this state, for the purposes of
15 carrying out ~~the provisions of~~ this section.

16 E. The board may also enter into research and development agreements,
17 royalty agreements, development agreements, licensing agreements and profit
18 sharing agreements concerning the research, development, production, storing
19 or marketing of new products developed or to be developed through university
20 research.

21 F. IF AN OWNERSHIP INTEREST IN A COMPANY OR CORPORATION IS ACCRUED TO
22 THE BOARD AS PART OF AN AGREEMENT PURSUANT TO SUBSECTION E OF THIS SECTION,
23 THESE OWNERSHIP INTERESTS SHALL BE TRANSFERRED TO THE TECHNOLOGY DEVELOPMENT
24 PERMANENT FUND ESTABLISHED BY SECTION 15-1662 IN ACCORDANCE WITH ARTICLE IX,
25 SECTION 7, CONSTITUTION OF ARIZONA.

26 Sec. 2. Section 15-1662, Arizona Revised Statutes, is amended to read:
27 15-1662. Universities: funds and accounts

28 A. The state treasurer shall maintain the following separate permanent
29 funds and accounts:

30 1. Universities land fund. Distributions from the fund pursuant to
31 article X, section 7, Constitution of Arizona, and all monies derived from
32 the lease, sale or other disposition of lands granted by the United States
33 for the use and benefit of the universities shall be deposited in the
34 universities land fund as provided in this section and section 37-522.
35 Monies accruing to the universities under the laws of the United States
36 pertaining to timber lands shall be deposited in the universities timber land
37 account established by section 37-482, subsection B and may be used for the
38 payment of expenditures which the state land department incurs for the
39 conservation, sale and other administration of timber or timber products as
40 provided in this section and sections 37-482 and 37-522.

41 2. Normal schools land fund. Distributions from the fund pursuant to
42 article X, section 7, Constitution of Arizona, and all monies derived from
43 the lease, sale or other disposition of lands granted by the United States
44 for the use and benefit of normal schools shall be deposited in the normal
45 schools land fund as provided in this section and section 37-523.

1 3. Agricultural and mechanical colleges land fund. Distributions from
2 the fund pursuant to article X, section 7, Constitution of Arizona, and all
3 monies derived from the lease, sale or other disposition of lands granted by
4 the United States for the use and benefit of agricultural and mechanical
5 colleges shall be deposited in the agricultural and mechanical colleges land
6 fund as provided in this section and section 37-524.

7 4. School of mines land fund. Distributions from the fund pursuant to
8 article X, section 7, Constitution of Arizona, and all monies derived from
9 the lease, sale or other disposition of lands granted by the United States
10 for the use and benefit of schools of mines shall be deposited in the school
11 of mines land fund as provided in this section and section 37-524.

12 5. Military institutes land fund. Distributions from the fund
13 pursuant to article X, section 7, Constitution of Arizona, and all monies
14 derived from the lease, sale or other disposition of lands granted by the
15 United States for the use and benefit of military institutes shall be
16 deposited in the military institutes land fund as provided in this section
17 and section 37-525.

18 6. THE TECHNOLOGY DEVELOPMENT PERMANENT FUND. ALL SECURITIES THAT
19 ACCRUE TO THE UNIVERSITIES UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
20 REGENTS PURSUANT TO SECTION 15-1635 SHALL BE MAINTAINED IN SEPARATE ACCOUNTS
21 FOR THE BENEFIT OF EACH UNIVERSITY AND SHALL BE TREATED AS ENDOWMENT ASSETS
22 SUBJECT TO TITLE 10, CHAPTER 41. THE STATE TREASURER, ACTING AS A TRUSTEE ON
23 BEHALF OF A UNIVERSITY, MAY ACQUIRE, HOLD AND DISPOSE OF SECURITIES IN THE
24 TECHNOLOGY DEVELOPMENT PERMANENT FUND FOR INVESTMENT PURPOSES. ON OR BEFORE
25 MARCH 1 OF EACH YEAR, THE STATE TREASURER AND EACH UNIVERSITY UNDER THE
26 JURISDICTION OF THE BOARD SHALL ISSUE A PUBLIC REPORT OF ITS ACTIVITIES UNDER
27 THIS PARAGRAPH DURING THE PRECEDING CALENDAR YEAR. THE STATE TREASURER SHALL
28 SUBMIT A COPY OF THE REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND
29 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THE
30 REPORT TO THE SECRETARY OF STATE, THE DIRECTOR OF THE ARIZONA STATE LIBRARY,
31 ARCHIVES AND PUBLIC RECORDS AND ANY OTHER PERSON WHO REQUESTS A COPY. THE
32 REPORT SHALL INCLUDE INFORMATION, BY UNIVERSITY, RELATING TO:

33 (a) THE BUSINESS ENTERPRISES IN WHICH THE STATE TREASURER, ACTING AS A
34 TRUSTEE ON BEHALF OF A UNIVERSITY UNDER THE JURISDICTION OF THE BOARD,
35 RECEIVES AN OWNERSHIP INTEREST.

36 (b) TECHNOLOGY, INTELLECTUAL PROPERTY AND OTHER PRODUCTS TRANSFERRED
37 TO THE BUSINESS ENTERPRISES.

38 (c) AGREEMENTS RELATING TO THE RESEARCH, DEVELOPMENT, PRODUCTION,
39 STORING AND MARKETING OF NEW PRODUCTS OR SERVICES DEVELOPED BASED ON
40 UNIVERSITY RESEARCH, TECHNOLOGY OR INTELLECTUAL PROPERTY.

41 (d) REVENUES PRODUCED FROM ACTIVITIES UNDER THIS PARAGRAPH.

42 B. The Arizona board of regents shall maintain a separate permanent
43 fund to be known as the universities fund. All monies other than those
44 specified in subsection A **OF THIS SECTION** which are derived from the lease,
45 sale or other disposition of lands or property which are given by any person

1 or by law as a trust fund to be administered by the board in conformity with
2 the terms of the gift shall be deposited in the universities fund. Such
3 monies shall be invested and administered as designated for the use of the
4 universities except such monies as are appropriated for specific purposes
5 from the general fund of this state for the use of the universities.

6 C. The state treasurer shall keep the monies of the land funds
7 invested in safe interest bearing securities and prudent equity pursuant to
8 article X, section 7, Constitution of Arizona, and as provided by sections
9 35-313 and 35-314.01, and monies earned from investment shall be credited to
10 the funds.

11 D. Monies shall not be taken from one fund or deposited in any other
12 fund nor shall any fund or the income from the fund be taken or expended for
13 any object other than that of the original gift or appropriation.